

**IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF WISCONSIN  
MILWAUKEE DIVISION**

**ANDREW L. COLBORN,**

**Plaintiff,**

**vs.**

**NETFLIX, INC.; CHROME MEDIA  
LLC, F/K/A SYNTHESIS FILMS, LLC;  
LAURA RICCIARDI; AND MOIRA  
DEMOS,**

**Defendants.**

**Civil No.: 19-CV-484-BHL**

**DEFENDANT NETFLIX, INC.'S MOTION TO STRIKE MICHAEL GRIESBACH'S  
IMPROPER SUR-REPLY BRIEF OPPOSING DEFENDANT NETFLIX, INC.'S  
MOTION TO COMPEL**

Defendant Netflix, Inc. ("Netflix"), by and through undersigned counsel, moves this Court pursuant to Civil L.R. 7(i) for an order striking the filing captioned "Michael Griesbach's Reply Brief Opposing Defendant Netflix, Inc.'s Motion to Compel" (Dkt. 225) and its attached affidavits (Dkts. 226 & 227).

This "reply brief" is actually a sur-reply improperly filed without leave of court in violation of Civil Local Rule 7(i). No rule or court order contemplates the filing of a sur-reply without leave, and there is nothing in the brief or its attached affidavits that could not have been included in Mr. Griesbach's Response to Netflix's Motion to Compel. Accordingly, the "reply brief" and attached affidavits should be stricken from the record. *See, e.g., Marigny v. Centene Mgmt. Co. LLC*, No. 18-cv-1386-bhl, 2021 U.S. Dist. LEXIS 121931, at \*9-11 (E.D. Wis. June 30, 2021) (Ludwig, J.) (granting motion to strike "improper and unauthorized sur-reply").

Netflix would be prejudiced if Mr. Griesbach is allowed to raise arguments and provide affidavits without providing Netflix with an opportunity to respond to the inaccuracies and mischaracterizations contained within them. Thus, if this Court declines to strike the “reply brief,” Netflix respectfully requests that this Court enter an order granting Netflix leave to file a response to Mr. Griesbach’s sur-reply prior to the May 25, 2022 hearing.

### **CONCLUSION**

For these reasons, Netflix respectfully requests that this Court issue an order striking the filing captioned “Michael Griesbach’s Reply Brief Opposing Defendant Netflix, Inc.’s Motion to Compel” (Dkt. 225) and its attached affidavits (Dkts. 226 & 227) or, in the alternative, granting Netflix leave to respond to that filing prior to the May 25, 2022 hearing.

Dated: May 16, 2022

Respectfully submitted,

/s/ Matthew E. Kelley

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